IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

M.D.Lohiya & Ors. v. State of Rajasthan & Ors.

(1)S.B.CIVIL WRIT PETITION NO.3260/2004

A.N.Rajappan & Ors. v. State of Rajasthan & Ors.

(2)S.B.CIVIL WRIT PETITION NO.3259/2004

Petitions under Article 226 of the Constitution of India.

Date of Order :: 4th January, 2007

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Manoj Bhandari, for the petitioners.
Mr. RPS Choudhary, Additional Advocate General.
Mr. Yashwant Mehta, for the respondents.

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BY THE COURT :

Being based on same cause these petitions for writ are heard together and are decided by this common order.

The factual matrix giving rise to these petitions is that the pay scales evolved by the Government of Rajasthan under the recommendations of Ranawat Pay Commission were made applicable to the

non-teaching staff of the respondent University (then known as Jodhpur University) w.e.f. 1.9.1968 in pursuant to the sanction granted by the Government of Rajasthan as conveyed under a communication dated 27.2.1971. Accordingly, the pay scale applicable to the post o Librarian in Government Degree Colleges was made applicable to the post of Senior Technical Assistants/Professional Assistants working with the university. The university revised the pay scales qua the Senior Technical Assistants/Professional Assistants as and when the same stood revised for the Librarians working with the Government Degree Colleges that was as under:-

Date of Revision	Pay scale prescribed for Librarians in Govt.Degree Colleges	Pay Scales prescribed Sr.Technical Asstts./ Professional Asstts. working with respondent university.
1.9.1968	Rs.250-625	Rs.250-625
1.9.1976	Rs.590-1035	Rs.590-1035
1.9.1981	Rs.780-1460	Rs.780-1460
1.9.1986	Rs.1460-2900	Rs.1460-2900
1.9.1988	Rs.1640-2900	Rs.1640-2900

By a communication dated 24.4.1993 the Government of Rajasthan conveyed that Governor of Rajasthan in compliance of a direction given on 8.10.1990 (SBCivil Writ Petition No.608/82) by Rajasthan High Court ordered for grant of pay scales as recommended by University Grants Commission

(hereinafter referred to as “the UGC”) to the Librarians working in Government Colleges w.e.f. 1.4.1980. Accordingly, the respondent university also by an office order dated 7.7.1984 revised the pay scales of Rs.590-1050 by the pay scale of Rs.700-1600 w.e.f. 1.4.1980. The university by the same order also revised the pay scale of Rs.700-1600 as of Rs.2200-4000 w.e.f. 1.1.1986. The aforesaid revision was made by the university with view to maintain parity with the Librarians working in Government Degree Colleges getting pay in accordance with the Rajasthan Civil Services (Revised Pay Scales) Rules, 1976 and the Rajasthan Civil Services (Revised Pay Scales) Rules, 1986. It is pertinent to note that the order dated 7.7.1994 was passed by the Registrar of the University in accordance with a resolution No.71/94 undertaken by the Syndicate of the University. As a consequent to the orders dated 7.7.1994 and 24.4.1993 the pay scales of the Librarians working in Government Degree Colleges and Senior Technical Assistants/Professional Assistants working with the respondent university became as follows:-

Date of Revision	Pay scale prescribed for Librarians in Govt.Degree Colleges	Pay Scales prescribed Sr.Technical Asstts./ Professional Asstts. working with respondent university.
1.9.1980	Rs.700-1600	Rs.700-1600
1.9.1986	Rs.2200-4000	Rs.2200-4000

The Government of Rajasthan further revised the pay scales and allowed the pay scale of Rs.8000-13500 w.e.f. 1.9.1996 to the Librarians working in Government Degree Colleges but the same was not accorded to the Senior Technical Assistants/ Professional Assistants working with the respondent university.

The Senior Technical Assistants/Professional Assistants of the university accordingly submitted a representation to the respondent university for grant of pay scale by maintaining parity with the Librarians working with Government Degree Colleges. Instead of making such revision the Finance Officer of the University under a letter dated 16.9.2000 communicated that according to an inspection report submitted by the audit party for the period 1993-98 the pay scale of Rs.2200-4000 was erroneously given to the Senior Technical Assistants/Professional Assistants working with the university and, therefore, the amount paid as a consequent to such erroneous fixation in higher pay scale is required to be recovered. The Senior Technical Assistants/Professional Assistants working with the university including the petitioners submitted a representation to the Vice Chancellor of the University on 9.10.2000 explaining the entire factual back ground in that the pay scale of Rs.2200-

4000 was allowed to them. The Vice Chancellor of the university also by a communication dated 16.11.2000 justified the grant of pay scale of Rs.2200-4000 to the Senior Technical Assistants/ Professional Assistants working with the university and made a request to the State Government to issue ex-post facto approval for allowing the pay scale of Rs.2200-4000 to the Senior Technical Assistants/ Professional Assistants. It appears that the Government of Rajasthan did not choose to accept the request made by the university, therefore, the Registrar of the University by a communication dated 10.4.2004 directed the petitioners to submit their explanation within a period of 15 days as to why the recovery be not made from their pay for the amount that is paid in excess as a consequent to their fixation in the pay scale of Rs.2200-4000 w.e.f. 1.9.1996. The Senior Technical Assistants/Professional Assistants working with the university submitted their explanation to the Registrar of the University and also agitated their cause for grant of pay scale of Rs.2200-4000 w.e.f. 1.1.1986 and further for grant of pay scale of Rs.8000-13500 through their counsel by submitting a notice for demand of justice dated 3.5.2004, the respondent university in response thereto vide a communication dated 1.7.2004 informed that the pay scale of Rs.2200-4000 was granted by the university to the Senior Technical Assistants/ Professional Assistants without prior approval of the Government,

therefore, the same is erroneous and that is required to be withdrawn and the amount paid in excess as a consequent to grant of pay scales above is also required to be recovered.

The petitioners are the Senior Technical Assistants/Professional Assistants to whom the pay scale aforesaid was granted by the university. These petitions for writ are preferred by them giving challenge to the decision for withdrawal of pay scale of Rs.2200-4000, the recovery sought to be made by the respondent university and further for grant of the pay scale of Rs.8000-13500 from the date it was awarded to the Librarians working with Government Degree Colleges.

To substantiate the relief claimed it is contended by counsel for the petitioners that the petitioners being Senior Technical Assistants/ Professional Assistants with the respondent university stand at the same pedestal to the Librarians working with Government Degree Colleges and, therefore, they are entitled for the pay scales made applicable qua them. Any disparity with regard to grant of pay scales with the petitioners vis-a-vis the Librarians working in Government Degree Colleges is discriminatory and also in violation of the decision taken by the Government of Rajasthan much back in the year 1971 for application of pay scale prescribed for Librarians to the Senior Technical Assistants/ Professional

Assistants . It is further stated that the Senior Technical Assistants/Professional Assistants in light of the orders passed by the Government of Rajasthan on 24.4.1993 read with order dated 5.8.1993 are entitled for getting the pay scales prescribed by the UGC, as such no illegality has been committed by the university by allowing the pay scale of Rs.2200-4000 w.e.f. 1.1.1986. It is asserted on behalf of the petitioners that they are entitled for getting the pay scale of Rs.8000-13500 w.e.f. 1.9.1996 as it is given to the Librarians working with Government Degree Colleges.

Per contra, in reply to the writ petition it is stated by Government of Rajasthan that the Senior Technical Assistants/Professional Assistants cannot be treated at par with the Librarians working with Government Degree Colleges and, therefore, they are not entitled for the pay scales prescribed in accordance with the recommendations made by the UGC. It is also stated that the pay scale of Rs.2200-4000 was given to the Senior Technical Assistants/Professional Assistants working with the respondents including the petitioners without first getting sanction for the same from Government of Rajasthan, therefore, the same is rightly withdrawn and recovery for the amount paid in excess as a consequent to grant of pay scale above w.e.f. 1.1.1986 is required to be made.

Heard counsel for the parties.

I do not find any force in the contention of counsel for the respondents that the petitioners and other Senior Technical Assistants/ Professional Assistants working with the respondent university cannot be equated with the Librarians working with Government Degree Colleges. As a matter of fact such equivalence has already been made long back and the Senior Technical Assistants/Professional Assistants working with the respondent university since 1968 are getting pay scales allowed to the Librarians working with the Government Degree Colleges. It is the position admitted that a parity in grant of pay scale to Senior Technical Assistants/Professional Assistants vis-a-vis Librarians working with Government Degree Colleges is maintained by the respondents since 1968, that cannot be changed without a cogent reason. It is not open for the Government now to say that the Senior Technical Assistants/Professional Assistants working with the respondent university do not hold the post equivalent to the post of Librarians working in Government Degree Colleges.

The university in pursuant to the orders passed by the Government of Rajasthan on 24.4.1993 read with 5.8.1993 on basis of resolution No.71/94 undertaken by the Syndicate ordered to revise the pay

scales of Senior Technical Assistants/Professional Assistants by order dated 7.7.1994. Such revision was made by the university with a view to maintain parity with regard to grant of pay scales to the Senior Technical Assistants/Professional Assistants vis-a-vis Librarians working with the Government. It is true that before granting the pay scale of Rs.2200-4000 a sanction was required to be taken by the university but in totality of facts and circumstances of the case such sanction is quite formal and the respondent State should have granted it ex-post facto. I have intentionally used the term “formal sanction” for the reason that this Court by judgment dated 8.10.1990 (SBCivil Writ Petition No.608/82) declared the Librarians working in Government Degree Colleges entitled for getting the pay scales revised in accordance with the recommendations made by the UGC. The Senior Technical Assistants/Professional Assistants working with the respondent university for all purposes stand at par with the Librarians working in Government Degree Colleges, therefore, a cautious decision was taken by Government of Rajasthan to allow the same pay scales to them also. Looking to this fact in any event the State Government was required to accord sanction for grant of pay scale of Rs.2200-4000 to the Senior Technical Assistants/Professional Assistants working with the respondent university including the petitioners w.e.f. 1.1.1986. It is really surprising that the State Government instead of

granting ex-post facto sanction despite a request made by the Vice Chancellor choose to victimise the employees of the university. The act of the respondent State, therefore, is not only discourteous to the university but is also unjust and arbitrary. I also failed to understand as to why the respondent State has yet not allowed the pay scale of Rs.8000-13500 to the Senior Technical Assistants/ Professional Assistants working with the respondent university though the same has already been granted to the Librarians working with Government Degree Colleges w.e.f. 1.9.1996. As stated above, the respondents are under obligation to maintain parity with regard to grant of pay scales among the Senior Technical Assistants/Professional Assistants and Librarians working with Government Degree Colleges. Non grant of pay scale of Rs.8000-13500 to the Senior Technical Assistants/Professional Assistants working with the respondent university including the petitioners w.e.f. 1.9.1996 is highly discriminatory.

Accordingly, these petitions for writ deserve acceptance. The same, therefore, are allowed. The petitioners are declared entitled for grant of pay scale of Rs.2200-4000 w.e.f. 1.1.1986. The State Government, therefore, is directed to grant ex-post facto sanction for payment of such pay scales to the petitioners. The recovery sought to be made by the respondent university, by treating the grant of pay

scale o Rs.2200-4000 to the petitioners erroneous, is declared illegal. The respondents are further directed to allow the pay scale of Rs.8000-13500 to the petitioners w.e.f. 1.1.1996. The arrears accruing as a consequent to the fixation sought to be made in terms above shall be paid to the petitioners within a period of three months from today with an interest @ 6% per annum.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.